

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	No. 08 CR 512
)	
v.)	
)	
AARON T. SMITH and)	Chief Judge Holderman
MICHAEL CHARLES MAY)	

**GOVERNMENT’S UNOPPOSED FIRST MOTION FOR AN EXTENSION OF TIME TO
RETURN INDICTMENT PURSUANT TO 18 U.S.C. § 3161(h)**

The UNITED STATES OF AMERICA, by its attorney, PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, respectfully moves this Court, pursuant to 18 U.S.C. § 3161(h)(8), for a 30-day extension of time, to and including August 22, 2008, in which to seek the return of an indictment against the defendants, for the following reasons:

1. On or about June 25, 2008, defendants were arrested and charged by criminal complaint with bank robbery, in violation of Title 18, United States Code, Sections 2113(a) and 2. On June 25, 2008, Defendant Smith entered the First Midwest Bank, located at 1415 W. Jefferson Street, Joliet, Illinois, and handed a teller on duty a demand note. After the teller handed Defendant Smith approximately \$18,151.00 of the bank’s money, Defendant Smith left the bank, and was seen getting into a car being driven by Defendant May. When police officers attempted to affect a traffic stop of Defendant May’s car, a short pursuit ensued. Ultimately, Defendant May crashed his car into a building. After the crash, officers arrested Defendants May and Smith. Money taken from the First Midwest Bank was found in Defendant Smith’s pocket. After his arrest, Defendant Smith was interviewed and reported that Defendant May wrote the demand note and told Defendant Smith to take it into the bank.

2. A number of factors have led to the government's request for an extension. Those factors include the need to analyze all evidence including fingerprint analysis and bank surveillance footage. The remaining factors are enumerated in the Attachment, which has been filed under seal.

3. Thus, the thirty days available to the government pursuant to Title 18, United States Code, Section 3161(b) in which to file an indictment or information against defendants based on their arrest will not be sufficient. The United States estimates that a 30-day extension from the current expiration date of July 25, 2008, to and including August 22, 2008, will be sufficient time within which to return an indictment in this matter.

4. Among the factors identified by Congress as relevant to the determination of whether time should be extended for indictment are those set forth in 18 U.S.C. § 3161(h)(8)(B), which provide in relevant part:

Whether, in a case in which arrest precedes indictment, delay in the filing of the indictment is caused because . . . the facts upon which the grand jury must base its determination are unusual or complex; [and]

Whether the failure to grant such continuance in a case which, taken as a whole, is not so unusual or so complex as to fall within clause (ii), . . . would deny counsel for . . . the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

18 U.S.C. §§ 3161(h)(8)(B)(iii), (iv).

5. The government respectfully submits that the 30-day continuance is warranted in this case pursuant to the forgoing provisions. The government has been conducting a diligent and thorough investigation in this case, but the investigation includes analysis of a significant amount of evidence. The government cannot complete its investigation and appropriately conclude the investigation within the time allowed under Section 3161(b) of the Speedy Trial Act as currently extended.

6. Counsel for the government spoke to counsel for both defendants regarding this Motion on July 17, 2008. Counsel for both defendants indicated that they do not oppose this Motion.

WHEREFORE, the United States respectfully requests a 30-day extension of time from July 25, 2008 to August 22, 2008 in which to seek an indictment in this case.

Respectfully submitted,

PATRICK J. FITZGERALD
United States Attorney

By: /s/ Bethany K. Biesenthal
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Dated: July 21, 2008

CERTIFICATE OF SERVICE

The undersigned Assistant United States Attorney hereby certifies that the following documents:

Government's Unopposed First Motion for an Extension of Time to Return Indictment Pursuant to 18 U.S.C. § 3161(h)

were served on July 21, 2008, in accordance with FED. R. CRIM. P. 49, FED. R. CIV. P. 5, LR 5.5, and the General Order on Electronic Case Filing (ECF) pursuant to the district court's system as to ECF filers.

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